



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

March 14, 2022

Benedum Airport Authority
ATTN: Richard Rock
2000 Aviation Way
Bridgeport, WV 26330

CERTIFIED RETURN RECEIPT REQUESTED

9489 0090 0027 6402 6176 68

Dear Richard Rock:

Enclosed is Order No. 10033. This Order is issued to Benedum Airport Authority by the director of the Division of Water and Waste Management under the authority of West Virginia State Code 22-11-15. This Order contains notification of the right of appeal under the provisions of West Virginia State Code 22-11-21.


Jeremy W. Bandy
Chief Inspector

cc: Harold D. Ward, Cabinet Secretary, WVDEP (via e-mail)
Katheryn Emery, P.E., Director, DWWM (via e-mail)
Scott G. Mandirola, Deputy Secretary for External Affairs, WVDEP (via e-mail)
Yogesh Patel, Assistant Director, DWWM/Permits (via e-mail)
Brad Wright, Assistant Chief Inspector, EE/WW (via e-mail)
David C. Simmons, Assistant Chief Inspector, EE (via e-mail)
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)
Tim Casto, Environmental Inspector Supervisor, EE/WW (via e-mail)
Jonathan Hardman, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS, EE (via e-mail)
Brian Bridgewater, Environmental Resources Program Manager, DWWM (via e-mail)
Allison Gieda, US EPA, Region III (via e-mail)



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**ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Benedum Airport Authority
Attn: Richard Rock
2000 Aviation Way
Bridgeport, WV 26330

DATE: March 14, 2022

ORDER NO.: 10033

INTRODUCTION

The following findings are made and Order issued to Benedum Airport Authority pursuant to the authority vested in the Director of the Division of Water and Waste Management under Chapter 22, Article 11, Section 1 et seq. of the Code of West Virginia.

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Benedum Airport Authority is conducting land disturbance activity in Harrison County, West Virginia. Benedum Airport Authority was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR110649, on July 7, 2020.
2. On November 9, 2021, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
 - a. Section III.C.2.- Benedum Airport Authority failed to modify the Stormwater Pollution Prevention Plan (SWPPP) whenever it proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. The inlet that drains Pad 1 had no BMP in place for

sediment laden water. There was also a diversion ditch that was without a BMP leading to this inlet.

- b. Section I.B.- Benedum Airport Authority failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP. According to the SWPPP, in the drainage area for Pad 2, Sediment Traps 1-4 and the associated diversions were supposed to be in place prior to any disturbance. However, none of the traps or diversions were in place, and almost the entire area for Pad 2 had been cleared.
- c. Section I.G.- Benedum Airport Authority failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment-laden water was leaving the site at the inlet for the drainage area for Pad 2.
- d. 47CSR2 Section 3.2.b.- Benedum Airport Authority caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the stream. Due to the lack of BMPs at the inlet for Pad 1, there were sediment deposits at the outlet for the project on Ann Run (39.303583, -80.227815).

As a result of the aforementioned violations, Notice of Violation (NOV) No. W21-17-013-JHH was issued to Benedum Airport Authority.

- 3. On January 26, 2022, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
 - a. Appendix B.I.1. – Benedum Airport Authority failed to properly operate and maintain all activities and installed BMPs. There were several areas on the project, especially around Pad 2, where the silt fence was undercut, allowing sediment laden water to discharge off-site.
 - b. Section II.H.3.b.11.- Benedum Airport Authority failed to properly operate the sediment basin. Sediment Basin 2 was not holding water due to a leaking riser. Water was actively discharging underneath the pipe and out of the basin.
 - c. Section I.B.- Benedum Airport Authority failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP. There was no significant water being diverted into either Sediment Basin 2 or 3. Collection Ditch 34 (Sediment Basin 2) and Collection Ditch 14 (Sediment Basin 3), which were supposed to be diverting the water into the basins, were not installed. There was a mixture of phase 1 and phase 2 controls in place.
 - d. Section III.C.2.- Benedum Airport Authority failed to modify the SWPPP whenever it proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. There was no BMP in place for the stormwater that drains to the inlet at Pad 1. The SWPPP did not indicate the need for any BMPs in this area, and Benedum Airport Authority failed to modify the plan after becoming aware that it was ineffective.

As a result of the aforementioned violations, NOV No. W22-17-017-JHH was issued to Benedum Airport Authority.

4. On February 3, 2022, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
- a. Appendix B.I.1. – Benedum Airport Authority failed to properly operate and maintain all activities and installed BMPs. There were several areas on the project, especially around Pad 2, where the silt fence was undercut, allowing sediment laden water to discharge off-site. There was also one section of the clean water diversion (Diversion Ditch 2) that was discharging sediment laden water into Sediment Basin 3 due to a maintenance issue.
 - b. Section II.H.3.b.11.- Benedum Airport Authority failed to properly operate a sediment basin. Sediment Basin 2 was not holding water due to a leaking riser. Water was actively discharging underneath the pipe and out of the basin.
 - c. Section I.B.- Benedum Airport Authority failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP. There was no significant water being diverted into either Sediment Basin 2 or 3. Collection Ditch 34 (Sediment Basin 2) and Collection Ditch 14 (Sediment Basin 3), which were supposed to be diverting the water into the basins, were not installed. There was a mixture of phase 1 and phase 2 controls in place.
 - d. Section III.C.2.- Benedum Airport Authority failed to modify the SWPPP whenever it proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. The plans on site had no phase 1 and were significantly different from the approved plans, and Benedum Airport Authority failed to submit a formal modification. There was also no BMP in place for the stormwater that drains to the inlet at Pad 1. The SWPPP did not indicate the need for any BMPs, and Benedum Airport Authority failed to modify the plan after becoming aware that it was ineffective. In addition, there was an installed rock core drain at Pad 2 that was directing a significant amount of stormwater to one piece of smart fence for treatment, and the installed smart fence was being overwhelmed as a result.
 - e. Section II.H.3.b.9. - Benedum Airport Authority failed to stabilize clean water diversions prior to becoming functional. The clean water diversion around Pad 2 was not properly stabilized, causing sediment laden water to bypass all the controls and discharge off-site.
 - f. Section II.H.3.b.13.- Benedum Airport Authority failed to provide inlet and outlet protection for sediment control structures. There were also no dump rock gutters installed to Sediment Basin 2, causing fill slope erosion and an unstable inlet for Sediment Basin 2 at a volunteer inlet to the basin.
 - g. 47CSR2 Section 3.2.a.- Benedum Airport Authority caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the Unnamed Tributary (UNT) of Peddler Run and the UNT of Ann Run.

As a result of the aforementioned violations, NOV No. W22-17-018-JHH was issued to Benedum Airport Authority.

5. On February 28, 2022, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:

- a. Appendix B.I.1. – Benedum Airport Authority failed to properly operate and maintain all activities and installed BMPs. There were several areas on the project where the smart fence was undercut, allowing sediment laden water to discharge off-site. One section of the clean water diversion (Diversion Ditch 2) was discharging sediment laden water into Sediment Basin 3 due to a maintenance issue.
- b. Section II.H.3.b.11.- Benedum Airport Authority failed to properly operate the sediment basins. Sediment Basin 2 and Sediment Basin 3 were not holding water due to a leaking riser. Water was actively discharging underneath the pipe and out of the basin.
- c. Section I.B.- Benedum Airport Authority failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP. There was no significant water being diverted into either Sediment Basin 2 or 3. Collection Ditch 34 (Sediment Basin 2) and Collection Ditch 14 (Sediment Basin 3), which were supposed to be diverting the water into the basins, were not installed. There was a mixture of phase 1 and phase 2 controls in place.
- d. Section III.C.2.- Benedum Airport Authority failed to modify the SWPPP whenever it proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. The plans on site had no phase 1 and were significantly different from the approved plans, and Benedum Airport Authority failed to submit a formal modification. There was also no BMP in place for the stormwater that drains to the inlet at Pad 1. The SWPPP did not indicate the need for any BMPs in this area, and Benedum Airport Authority failed to modify the plan after becoming aware that it was ineffective. In addition, there was an installed rock core drain at Pad 2 that was directing a significant amount of stormwater to one piece of smart fence for treatment, and the installed smart fence was being overwhelmed as a result.
- e. Section II.H.3.b.9. - Benedum Airport Authority failed to stabilize clean water diversions prior to becoming functional. The clean water diversion around Pad 2 was not properly stabilized, causing sediment laden water to bypass all the controls and discharge off-site.
- f. Section II.H.3.b.9.- Benedum Airport Authority failed to protect fill slopes. There were erosion rills forming underneath the straw matting on the slope above the outlet for Pad 1 due to a concentrated flow.
- g. Section II.H.3.b.13.- Benedum Airport Authority failed to provide inlet and outlet protection for sediment control structures. There were also no dump rock gutters installed to Sediment Basin 2, causing fill slope erosion and an unstable inlet for Sediment Basin 2 at a volunteer inlet to the basin.
- h. Section I.G.- Benedum Airport Authority failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water bypassed controls due to maintenance issues, failure to operate basins, and failure to modify the plan.
- i. 47CSR2 Section 3.2.b.- Benedum Airport Authority caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the UNT of Peddler Run and the UNT of Ann Run.

As a result of the aforementioned violations, NOV No. W22-17-020-JHH was issued to Benedum Airport Authority.

ORDER FOR COMPLIANCE

And now, this day of March 14, 2022, Benedum Airport Authority is hereby ORDERED by the Director as follows:

1. Benedum Airport Authority shall immediately take measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within twenty (20) days of the effective date of this Order, Benedum Airport Authority shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Benedum Airport Authority will achieve compliance with the terms and conditions of its WV/NPDES permit and all pertinent laws and rules. The plan of corrective action shall make reference to Order No. 10033. The plan of corrective action shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

OTHER PROVISIONS

1. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Benedum Airport Authority of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Benedum Airport Authority to additional enforcement action in accordance with the applicable law.
2. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
3. This Order is binding on Benedum Airport Authority, its successors and assigns.
4. This Order shall terminate upon Benedum Airport Authority's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this Order which you are aggrieved to the Environmental Quality Board by filing a NOTICE of APPEAL on the form prescribed by such Board, in accordance with the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia within thirty (30) days after receipt of this Order.

This Order shall become effective upon receipt.



Katheryn Emery, P.E., Director
Division of Water and Waste Management

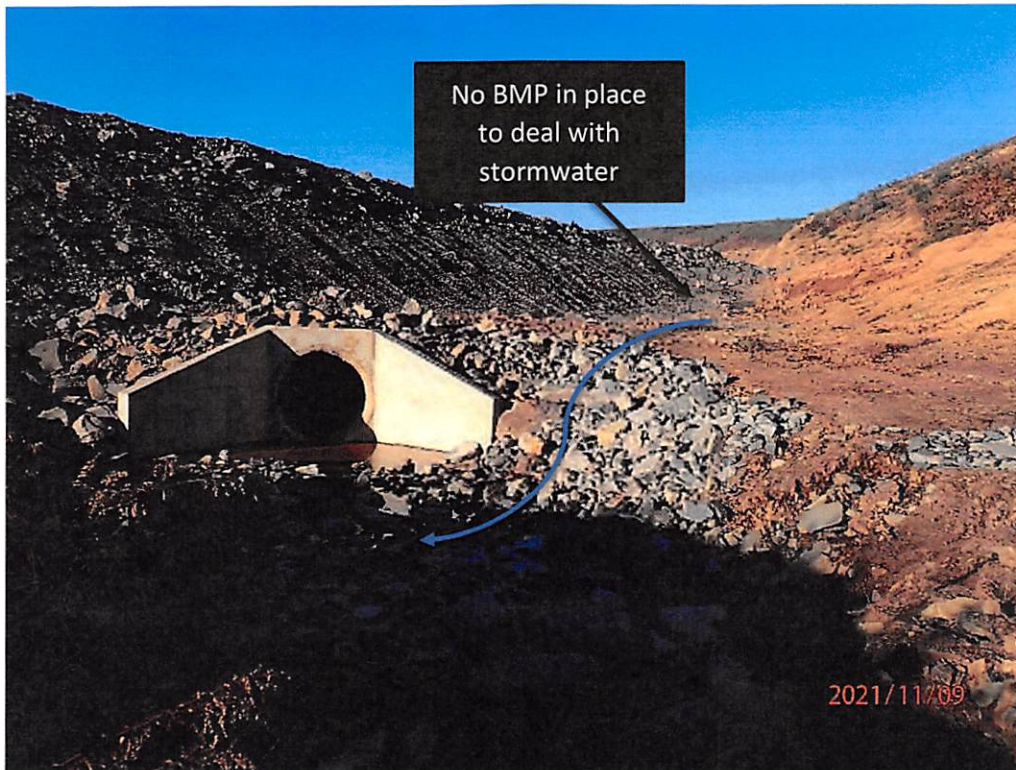


Photo shows the inlet that drains from pad 1. There was no BMP/treatment in place for the water that entered the culvert.



Photo shows the outlet to the culvert in the previous photo with conditions not allowable (CNA).



Photo shows a diversion ditch without any BMP/Treatment that leads to the inlet for pad 1 (shown in previous photos).



Photo shows drainage leading to the inlet for pad 2. The plans do not call for a BMP, and there is no treatment for the stormwater.



Photo shows inlet for pad 2. There was evidence of sediment laden water leaving the site.



Photo shows sediment deposits leading into the inlet that drains pad 2.



Photo shows drainage area for pad 2. There were no BMPs in place to deal with the water coming out of this drainage area. The SWPPP called for several sediment traps.



Photo shows Sediment Basin 2 which was not holding water due to a leaking riser.



Photo shows the leaking riser for Sediment Basin 2. The water was flowing underneath the pipes and out of the basin.



Photo shows outfall from Sediment Basin 2. The water is flowing underneath the pipe.



Photo shows silt fence being used as a BMP for concentrated flow near the outlet for Pad 2.



Photo shows the silt fence being undercut and bypassed by the concentrated flow.



Photo shows Sediment Basin 3 with no significant drainage area or water being diverted into it.

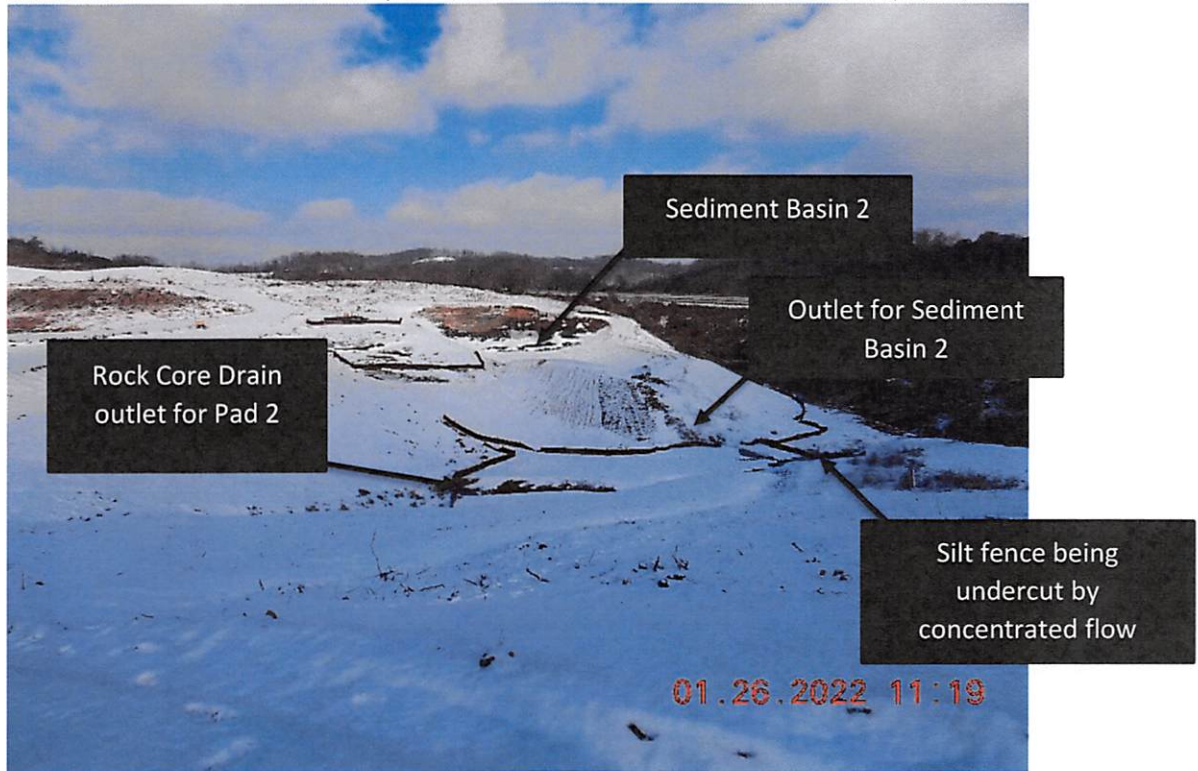


Photo shows overall drainage for Pad 2.

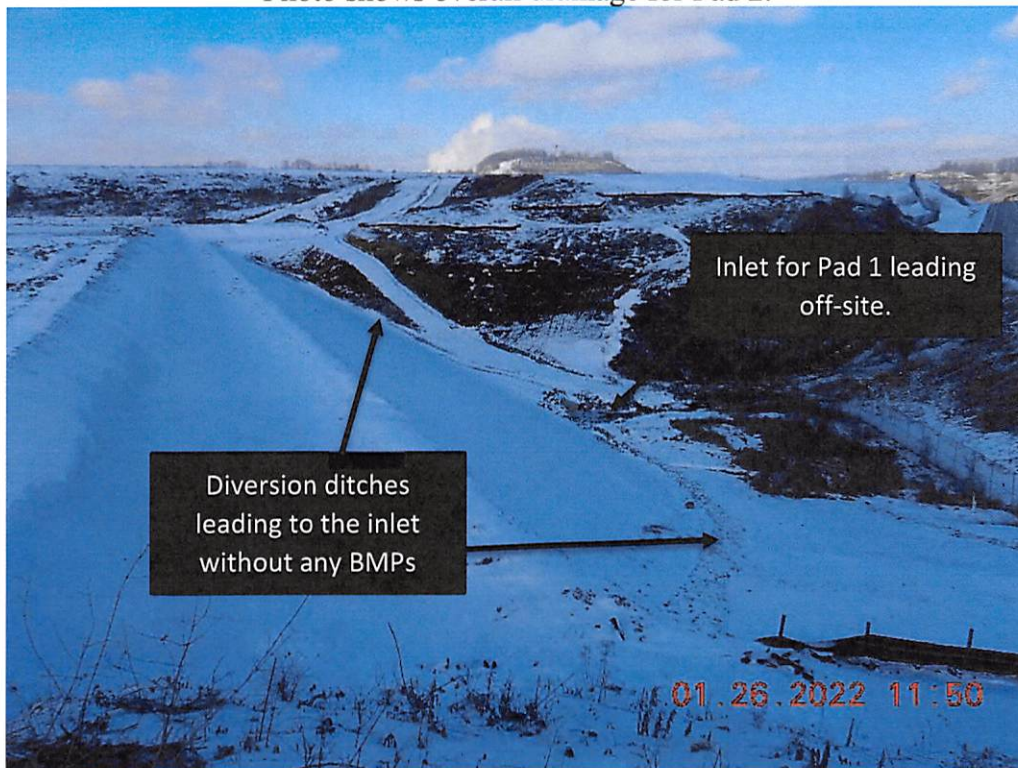


Photo shows overall drainage for pad 1. All the water is directed down to an inlet without any BMPs in place.



Photo shows bare ground with no temporary stabilization. On-site representatives stated the project had not been worked for three weeks, because of the cold weather. This was consistent over the entire project.



Photo shows an unstabilized inlet to Sediment Basin 2. According to the approved SWPPP, there should be a dump rock gutter installed to protect the fill slope and stabilize the inlet.

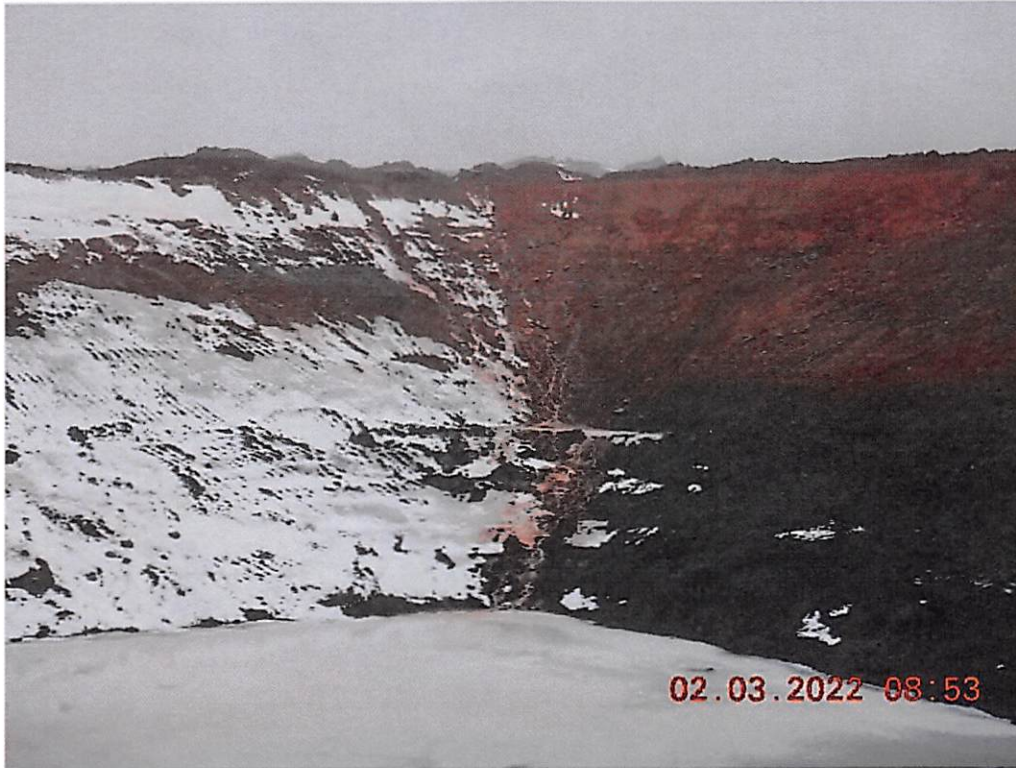


Photo shows another angle of the unstabilized inlet for Sediment Basin 2.



Photo shows sediment laden water from the unstabilized inlet (Sediment Basin 2) flowing toward the riser.



Photo shows the leaking riser for Sediment Basin 2. The water is running underneath the pipe to the outlet for the Basin.



Photo shows the outlet from Sediment Basin 2.



Photo shows Sediment Basin 3. Collection ditch 4 was not installed, so no significant water was being diverted to the basin.

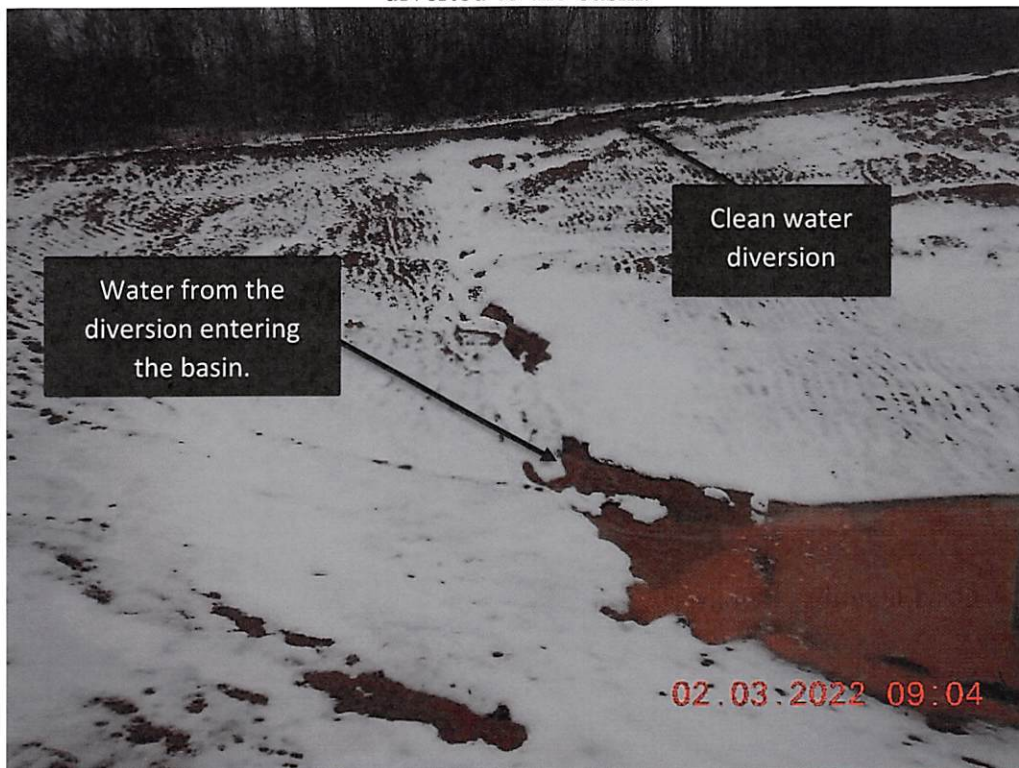


Photo shows the water from the clean water diversion running down into sediment basin 3. This was the only source of water for the basin.



Photo shows sediment laden water in the clean water diversion just above sediment basin 3. The clean water diversion was not properly stabilized.



Photo shows sediment laden water leaving Sediment Basin 3.



Photo shows the outlet for the rock core drain for Pad 2. The sediment laden water overtops a layer of silt fence before discharging off-site.



Photo shows a concentrated flow overtopping silt fence near the outlet for Pad 2. This is where the sediment laden water for the rock core drain flows.



Photo shows the sediment laden water flowing into the outlet for pad 2 and off-site.



Photo shows CNA in UNT of Peddler Run.

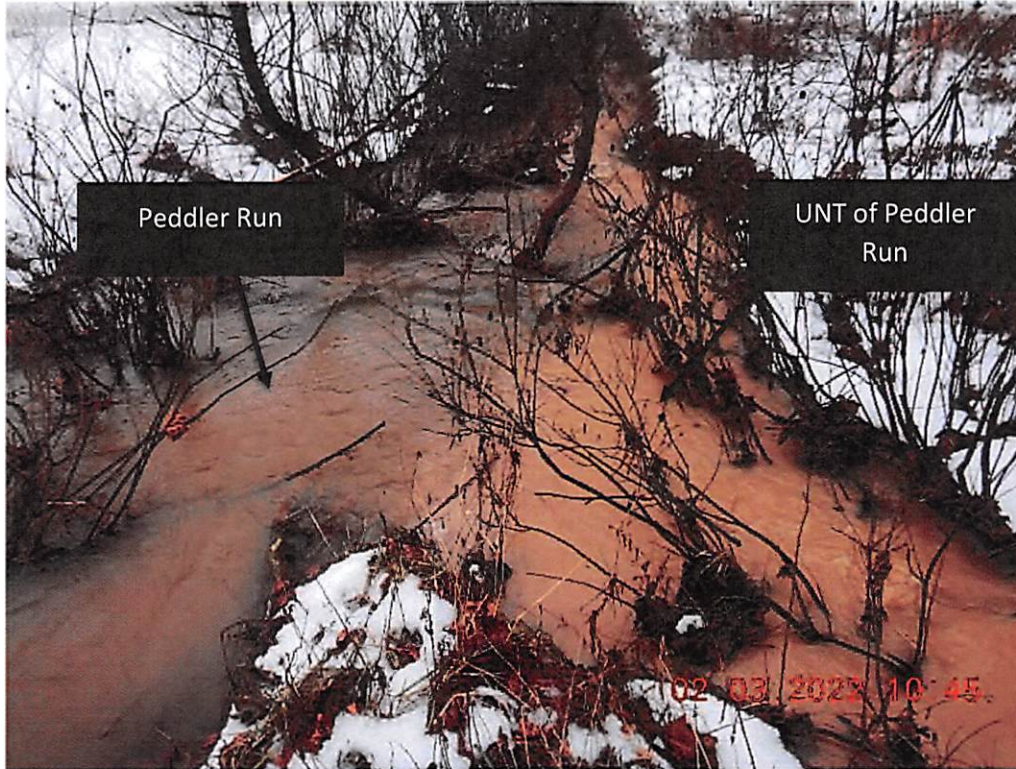


Photo shows the confluence of UNT with Peddler Run.



Photo shows sediment laden water running down a diversion ditch leading to the outlet for Pad 1.



Photo shows the diversion ditches running down to the outlet for pad 1 without any BMPs in place.



Photo shows sediment laden water from pad 1 being discharged into an outlet that leads offsite.



Photo shows sediment laden water running into a diversion ditch that leads to the outlet for pad 1. There is no BMP for the stormwater.



Photo shows sediment laden water from the ditch in the previous picture discharging into a small spring that leads to the outlet.



Photo shows CNA in the UNT of Ann Run.



Photo shows confluence of UNT with Ann Run.



Photo shows Sediment Basin 2, which does not hold water due to a leaking riser.



Photo shows the riser for Sediment Basin 2. The riser has not been sealed since the previous inspection, and the basin does not hold water.



Photo shows an unstabilized inlet for Sediment Basin 2. According to the SWPPP, there should be a dump rock gutter installed to protect the fill slope and stabilize the inlet.



Photo shows an unstabilized road that runs around Sediment Basin 2. This road conveys water down the hill and around the sediment basin.



Photo shows the road from the previous pictures with erosion rills.



Photo shows erosion rill on the bank of Sediment Basin 2 at another unstabilized inlet.

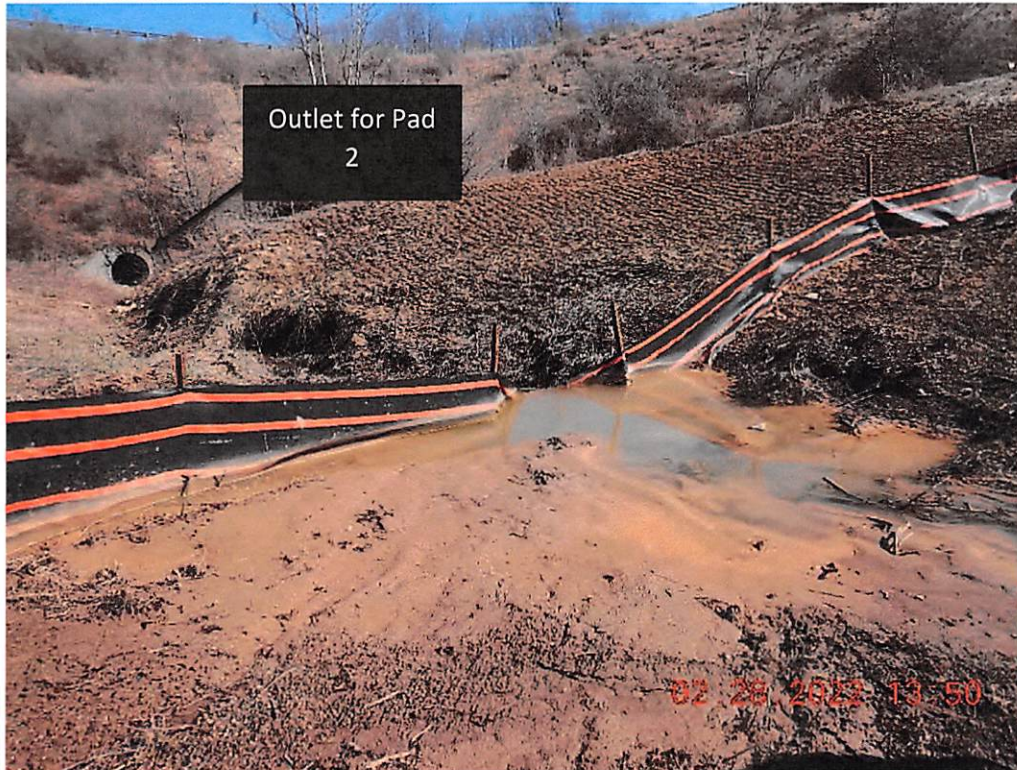


Photo shows a concentrated flow overtopping a silt fence near the outlet for pad 2. The fence is also overwhelmed with sediment from the previous rain.



Photo shows the outlet of the rock core drain for Pad 2. This is the conveyance that leads directly to the silt fence from the previous photo.



Photo shows the leaking riser for Sediment Basin 3, which is also not holding water.



Photo shows an unstabilized inlet for Sediment Basin 3 coming off the clean water diversion (diversion ditch 2).



Photo shows the clean water diversion (diversion ditch 2) that is not properly stabilized.



Photo shows several erosion rills on pad 1 created from concentrated flows. These erosion rills lead directly toward a break in the smart fence.



Photo shows where water is running around the smart fence on Pad 1. This is the break in the smart fence down slope the erosion rills in the previous photo.



Photo shows an overall view of the outlet for Pad 1. There is no BMP at the outlet for the stormwater that drains from pad 1.



Photo shows the outlet for pad 1 without any BMPs in place.



Photo shows an erosion rill forming underneath the straw matting on the hillside above the outlet for Pad 1, which was caused by a concentrated flow on the fill slope.



Photo shows the outlet for Pad 1 into a UNT of Ann Run.

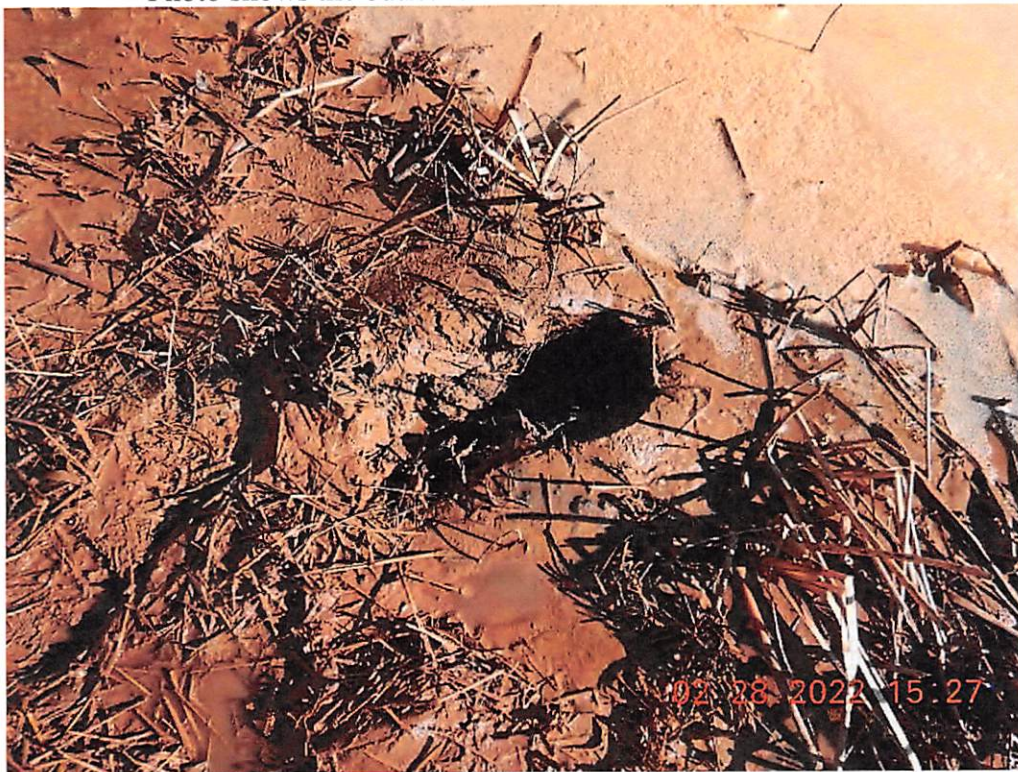


Photo shows sediment deposits in a UNT of Ann Run at the outlet for Pad 1.



Photo shows sediment deposits in a UNT of Peddler Run at the outlet for Pad 2.